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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,829	10/19/2001	Mary Rece Holt	KCX-454 (17074)	6183
22827	7590	06/30/2004	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			NERBUN, PETER P	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/032,829	Applicant(s) HOLT ET AL.	
	Examiner Peter P Nerbun	Art Unit 3765	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 May 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-98 is/are pending in the application.  
4a) Of the above claim(s) 1-37 and 65-94 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39-49 and 95-98 is/are allowed.
- 6) ☒ Claim(s) 38, 50, 52-54, 57, 58 and 60-64 is/are rejected.
- 7) ☒ Claim(s) 51, 55, 56 and 59 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01212004</u> | 6) <input type="checkbox"/> Other: _____  |

Claims 39-49 and 95-98 are allowed.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 38 is rejected under 35 U.S.C. 102(b) as being anticipated by Gemmell et al, (U.S.P. 5,691,919), taken as applied in the previous Office action. The patent to Gemmell et al discloses a method for tracking usage parameters of product pulled from a roll in which the product upon the roll is separated into a plurality of units whereby a series of pulls comprise a dispensing event, the method comprising: obtaining data related to rotation of a rotating member 30, Fig. 1 in a spindle apparatus 28 disposed within a product roll 26, the data representing values proportional to the degree of rotation of the rotating member, providing a first microprocessor 14 capable of receiving and processing said data, and computing by said first microprocessor a set of values from said data comprising the number of pulls per event (see col. 4, lines 1-6). Control unit is a microprocessor since it processes data and is small relative to the roll of toilet paper 26.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time

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the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 50,52-54,57,58, and 60-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gemmell et al (5,691,919) in view of Toussant et al, taken as applied in the previous Office action. Upon reconsideration the indicated allowability of claim 60 is withdrawn. An explanation of the reasoning for the rejection of claim 60 appears within this paragraph. The patent to Gemmell et al discloses a method for tracking usage parameters of product pulled from a roll in which the product upon the roll is separated into a plurality of units whereby a series of pulls comprise a dispensing event, the method comprising: obtaining data related to rotation of a rotating member 30, Fig. 1 in a spindle apparatus 28 disposed within a product roll 26, the data representing values proportional to the degree of rotation of the rotating member, providing a first microprocessor 14 capable of receiving and processing said data, and computing by said first microprocessor a set of values from said data comprising the number of pulls per event (see col. 4, lines 1-6). Control unit is a microprocessor since it processes data and is small relative to the roll of toilet paper 26. To accumulate data pertaining to the date and time that corresponds to the dispensing event in Gemmell et al as suggested by Toussant et al (at col. 8, lines 52-55) would have been obvious since Gemmell et al seeks to record time data that corresponds to events occurring near the time of dispensing event (e.g. the time that a person leaves the stall area after the dispensing event – see col. 4, lines 10-11). As a practical matter one of ordinary skill could deem the time that a person leaves the stall area as “corresponding” to the dispensing event itself since the two events are related and are occur near the same

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time. Nevertheless Toussant et al has been applied to clearly teach the step of accumulating data pertaining to the date and time of a dispensing event *per se*. With regard to claims 39 and 54 it would have been deemed obvious that multiple product rolls could be used to provide multiple data sets since Gemmell et al state that “paper use at the dispensing location” is to be “monitored and studied”. It is well known to one of ordinary skill that a plurality of rolls of toilet paper are used by users at a particular toilet location and that the use of these plurality of rolls constitutes “paper use”.

Therefore multiple data sets of data would be generated from such “paper use” and the data would comprise the amount of product pulled from these plurality of rolls in multiple pulling events. Further it is well known to one of ordinary skill that data is “validated” in a CPU (Central processing unit) of a microprocessor since data is processed through a series of logic gates within the CPU to verify that it is properly formatted. Regarding claim 60 note that the receiver 14, Fig. 1 is “capable of” regulating the supply of rolls made available to the spindle assembly since receiver 14 is a control unit that receives, analyzes and records data from the roll sensor 12. One obvious product of the analysis is the determination that a roll is empty and therefore in need of replacement thereby making the receiver “capable of” regulating the supply of rolls made available to the spindle assembly by giving a regulator the data necessary to determine when to replace the roll.

Claims 1-37 and 65-94 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic

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or linking claim. Election was made **without** traverse in the reply filed on October 9, 2003.

Claim 51 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 55 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 56 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 59 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 39 and its dependent claims are allowed since claim 39 recites the steps of providing a data acquisition device operably connected within a product roll and accumulating data using said data acquisition device, the data comprising at least the amount of product pulled from a plurality of rolls in multiple pulling events and transferring the data from the data acquisition device to a first microprocessor capable of manipulating data.

Claim 51 if rewritten in independent form including all of the limitations of the base claim is deemed allowable since claim 51 recites the steps of providing a spindle assembly, accumulating data using said spindle assembly, the data comprising at least the amount of product pulled from a product roll with a corresponding date and time, and transmitting a signal comprising in part said data from the spindle assembly to a receiver that makes an audible sound.

Claim 55 is allowed since claim 55 recites the steps of providing a spindle assembly, accumulating data using said spindle assembly, the data comprising at least the amount of product pulled from a product roll with a corresponding date and time, and transmitting a signal comprising in part said data from the spindle assembly to a receiver, wherein the signal is sent by wireless means.

Claim 56 is allowed since claim 56 recites the steps of providing a spindle assembly, accumulating data using said spindle assembly, the data comprising at least the amount of product pulled from a product roll with a corresponding date and time, and transmitting a signal comprising in part said data from the spindle assembly to a receiver, wherein the signal is sent by telephone.

Claim 59 is allowed since claim 59 recites the steps of providing a spindle assembly, accumulating data using said spindle assembly, the data comprising at least the amount of product pulled from a product roll with a corresponding date and time, and transmitting a signal comprising in part said data from the spindle assembly to a receiver, wherein the receiver is a computer at a roll distribution center.

Claim 95 and its dependent claims are allowed since claim 95 recites the steps of providing a spindle assembly, accumulating data using said spindle assembly, the data comprising at least the amount of product pulled from a product roll with a corresponding date and time, and wirelessly transmitting a signal comprising in part said data from the spindle assembly to the receiver.

Applicant's remarks filed May 12, 2004 have been considered. Applicants state that claim 38 as amended is patentable over Gemmell et al and that "Gemmell et al does not collect data in a spindle..." . Applicants further state that one skilled in the art would not have been motivated to fundamentally alter the system of Gemmell et al to "dispose that entire system in a roll". Neither of these arguments is deemed persuasive since claim 38 does not recite that data is collected "in a spindle" nor does claim 38 state that the entire system must be "in a roll". Claim 38 requires the step of obtaining data related to rotation of a rotating member in a spindle apparatus disposed within a product roll". Gemmell et al discloses this step since data in Gemmell et al is obtained by sensor 12, Fig. 1 related to rotation of a rotating member 30 in a spindle apparatus 28 disposed within a product roll 26. Applicant's request for re-entry, reconsideration, and allowance of dependent claims 82-94 (claims dependent upon claim 38) is denied since claim 38 has not been deemed allowable.

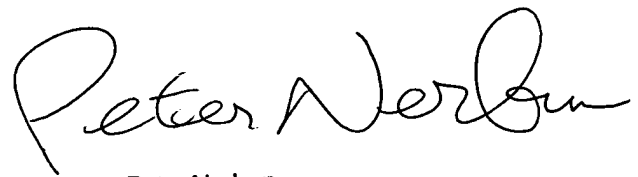
If applicant has any questions regarding the instant Office action, the examiner may be contacted at (703) 308-0955 from Monday to Friday between 10:00AM to 7:30PM during alternate weeks and from Monday to Wednesday between 10:00AM to



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7:30PM on the remaining alternate weeks. At other times between Monday and Friday applicant may contact the examiner's supervisor John Calvert at (703) 305-1025.

Peter Nerbun  
June 27, 2004

A handwritten signature in black ink that reads "Peter Nerbun". The signature is fluid and cursive, with the first letter of each word being capitalized and prominent.

Peter Nerbun  
Primary Examiner